

**REMARKS**

Claims 1-20 are currently pending, including new claims 19 and 20. The independent claims are claims 1, 13, and new claim 20.

Claims 1-9, 12-15, 18 stand initially rejected under 35 U.S.C. § 102 as being anticipated by *Ware* (US 3,772,827). The Examiner states the following:

For claim 1, *Ware* teaches a self-container planter system comprising a water retaining box 20, an elevated first soil retaining box 26, 25, 50 disposed above at least a portion of the water retaining box; and a drain portal 35 in a lower portion of the soil retaining box and above at least the portion of the water retaining box, and adapted to drain into the water retaining box.

The Examiner also states similar reasoning for claims 2 and 3 regarding the second elevated soil retaining box. The Examiner further states that *Ware* teaches a pump 21 regarding claim 4, a light regarding claim 5, a plurality of soil retaining boxes with the light below at least one of the boxes regarding claim 6, soil retaining boxes that are adjustable in elevation regarding claim 7, columnar support regarding claim 8, a structural bollard regarding claim 9, plants in the soil retaining box regarding claim 12, and similar statements for independent claim 13, and related dependent claims 14, 15, and 18.

The Applicant respectfully traverses the rejection. "A claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); *see also* MPEP § 2131; *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997).

*Ware* does not teach a *self-contained* planter system, as the claims recite and the disclosure provides. *Ware* teaches a storage shelf system that holds a plurality of independent flower pots 50. There is no teaching, showing, or suggestion to be able to *plant* (and therefore be

“self-contained”) any plant *on the shelf*. The Examiner attempts to combine the tray ribs 25 and tray walls 26 with the flower pots 50 to create the system of the disclosure. Such combination is only through the benefit of prohibited hindsight using the present disclosure. In fact, such a combination of 25, 26 and 50 is redundant and at cross purposes as explained below, as the present disclosure uses the trays as the planter and only needs the walls of the side to support the soil contained therein. *Ware* teaches use of separate flower pots to plant the plants, not the tray.

*Ware* specifically notes such a difference in structure when *Ware* teaches the “flow pots 50 set atop a plurality of tray ribs 25 provided in the tray bottom 28.” The “functional result achieved by the tray ribs 25, namely, [is] providing a drainage area beneath each flower pot 50 so that on the off portion of the cycle the underneath portion of each flower pot 50 may dry completely.” (Col. 3, lines 24-32.)

It is respectfully submitted that the ability of each flower pot 50 to dry completely *on the tray* is at cross purposes and distinct from the self-contained planter system of the present disclosure, where the soil is dispersed *across* the soil retaining box, as presently recited. For the soil to dry completely in the soil retaining box would be detrimental to the plant life.

Still further, *Ware* drains water to the base of the tray accommodating only root system feeding of plants in the flower pots. In contrast, the present disclosure allows water to drain through the drain portal of an upper soil retaining box onto the plant foliage in a lower soil retaining box to directly foliar feed the plants instead of relying just on root system feeding.

Finally, “bollard” in claim 9 is a term of art and is disclosed in the application as a structural member capable of withstanding, for example, a crash through a large window into an occupied area. The relatively small tie bar 16 of *Ware* cannot effectively be compared to a bollard of the present disclosure. In summary, the Examiner is respectfully requested to

withdraw the rejection.

Claims 10 and 16 stands initially rejected under 35 U.S.C. § 103 as being unpatentable over *Ware* in view of *Morris* (US 5,216,836). The Examiner states that *Morris* includes a self-contained planter system comprising a control panel and it would have been obvious to include a control panel in the system of *Ware*.

The Applicant respectfully traverses the rejection. *Ware* has been distinguished above and *Morris* does not supply the deficiency alone or in combination with *Ware*. Further, *Morris* directly teaches away from a "soil retaining box" of the present disclosure, as being specifically suited for hydroponics particularly on long space missions. The Examiner is respectfully requested to withdraw the rejection.

Claims 11 and 17 stands initially rejected under 35 U.S.C. § 103 as being unpatentable over *Ware* in view of FR2739253 (FR253). The Examiner states that *FR253* teaches a self-contained planter system comprising an enclosure formed in a water retaining box 1 and accessible from an exterior portion of the water retaining box, the enclosure housing a drain valve, where it would have been obvious to employ a drain valve.

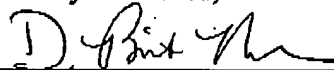
The Applicant respectfully traverses the rejection. *Ware* has been distinguished above and *FR253* does not supply the deficiency alone or in combination with *Ware*. Further, *FR253* does not appear to include an enclosure that can be accessed from an exterior portion of the water retaining box (that is, independent of the water in the water retaining box). As the Examiner admits, the top has to be removed to even access the drain valve and such access would be to go through the water to the drain valve. Thus, no exterior access independent of the water is available with *FR253*. The Examiner is respectfully requested to withdraw the rejection.

In conclusion, the references cited by the Examiner, alone or in combination, do not teach, show, or suggest the present invention. Therefore, it is believed that the rejections made by the Examiner has been obviated, and Applicant respectfully requests that the same be withdrawn. Allowance of the claims is respectfully requested.

Date: \_\_\_\_\_

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Respectfully submitted,



D. Brit Nelson  
Registration No. 40,370  
LOCKE LIDDELL & SAPP LLP  
3400 Chase Tower  
600 Travis Street  
Houston, Texas 77002-3095  
713-226-1361  
713-223-3717 (Fax)  
Attorneys for Applicant